

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed December 13, 2007. At the time of the Office Action, Claims 1-54 were pending in the Application and stand rejected. Applicant amends several Independent Claims without prejudice or disclaimer. The amendments to these claims are not the result of any Prior Art reference and, thus, do not narrow the scope of any of the claims. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. All of Applicant's amendments have only been done in order to advance prosecution in this case. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 102 Rejection

The Examiner rejects Claims 1-54 under 35 U.S.C. §102(b) as being anticipated by U.S. Publication No. 2002/0035404 issued to Ficco et al. (hereinafter "*Ficco*"). This rejection is respectfully traversed for the following reasons.

Applicant respectfully reminds the Examiner that a claim is anticipated only if each element as set forth in the claim is either found, expressly or inherently described, in a single prior art reference.<sup>1</sup> In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim."<sup>2</sup> In regard to inherency of a reference, "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic."<sup>3</sup> Thus, in relying upon the theory of inherency, an Examiner must provide a

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<sup>1</sup> *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

<sup>2</sup> *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); MPEP §2131 (*emphasis added*).

<sup>3</sup> MPEP §2112 (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993) (*emphasis in original*)).

basis in fact and/or technical reasoning to support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.<sup>4</sup>

Independent Claim 1 recites (*inter alia*) "...receiving a selection of an agent shortcut operation from a user on an agent setup device, wherein the agent setup device is a mobile device coupled to a network and residing in a first location, and wherein the selection is received via a graphical user interface associated with a web page; and sending the selected agent shortcut operation through the network to an agent activation device residing in a second location, wherein the agent shortcut operation is relayed back through the network and to an ~~the~~ electronic device to be available for subsequent activation at a third location in which the electronic device resides."

First, no reference (including *Ficco*) discusses a selection being *received via a graphical user interface associated with a web page*. Second, no reference provides for the agent shortcut operation being relayed back through a network, where the agent setup device, the agent activation device, and the electronic device *reside in three different locations*. All of these limitations are provided for in Independent Claim 1, but no reference of record includes such elements. Applicant has reviewed the cited references and found nothing that would be relevant to these teachings.

For at least these reasons, Independent Claim 1 is allowable over any cited reference, or combination of references. The other Independent Claims recite limitations similar, but not identical, to those recited in Independent Claim 1. Therefore, these claims are also allowable, for example, for the same reasons as identified above. Additionally, the corresponding dependent claims from these Independent Claims are also patentably distinct for analogous reasons. Notice to this effect is respectfully requested in the form of a full allowance of these claims.

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<sup>4</sup> MPEP §2112 (citing *Ex Parte Levy*, 17 USPQ 2d 1461, 1464 (Bd. Pat. at App. and Inter. 1990) (*emphasis in original*)).

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

A Petition for Revival of an Application for Patent Abandoned Unintentionally is being filed simultaneously herewith. The Petition fee for \$1620 is being paid concurrently herewith via the Electronic Filing System (EFS) by way of Deposit Account No. 50-4889 authorization. No additional fees are believed due. However, please apply any other charges or credit any overpayment to Deposit Account No. 50-4889 of PATENT CAPITAL GROUP, referencing the attorney docket number referenced above.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at (214) 823-1241.

Respectfully submitted,

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